

UNITED STATES DISTRICT COURT
FOR THE
WESTERN DISTRICT OF PENNSYLVANIA

FILED

JAN - 2 2008

JUAN DAVILA-BAJANA,
PLAINTIFF,

-VS-

TIM HOLOHAN, ET AL.,
DEFENDANTS.

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CIVIL ACTION #04-253-E

JUDGE: SEAN J. MCLAUGHLIN

CLERK U.S. DISTRICT COURT
WEST. DIST. OF PENNSYLVANIA

CONSOLIDATED:

NOTICE OF APPEAL OF JUDGE MCLAUGHLIN'S ORDER OF 12/06/07,

AND

REQUEST FOR LEAVE TO APPEAL IN FORMA PAUPERIS

NOW COMES Juan Davila-Bajana, Pro Se (Plaintiff); and hereby respectfully submits his combined Notice of Appeal of Judge Mclaughlin's Order of December 06, 2007, Dismissing his Complaint; and Request for Leave to proceed on Appeal at the Third Circuit in forma pauperis.

As a general matter, Plaintiff persists in the belief that his Claims have merit and that the District Court inadvertently Dismissed his Complaint in err. And Plaintiff intends to raise all the arguments that were placed in his Objections to the Magistrate Judge's Report and Recommendation (R&R) -- as well as any other issue that is cognizable based in the underlying pleadings and the Memorandum Order of 12/06/07.

Furthermore, Plaintiff states that his financial position has not "brightened" since this Honorable Court had Granted his Leave to proceed without prepayment, or providing surety therefor,


fees and costs associated with prosecuting his civil suit. And because of this Plaintiff respectfully request that this Honorable Court will extend his in forma pauperis status to the Appeals Court. For the Court's reference, Plaintiff has attached an updated certified inmate account statement showing that he is, in fact, still without means to prepay the costs associated with an Appeal.

WHEREFORE PLAINTIFF PRAYS, that the Honorable Sean J. McLaughlin will Enter his Notice of Appeal with the Third Circuit, and certify him to proceed without prepayment, or being required to provide surety of, the fees and costs associated with said appeal.

DECLARATION AND CERTIFICATE OF SERVICE

I, Juan Davila-Bajana, hereby declare and affirm, under the penalty of perjury pursuant to 28 USC § 1746(2), that the foregoing pleading is true and correct; and that I served, by first-class postage prepaid surrender to the prison officials, two (2) copies of the foregoing Notice of Appeal and one (1) copy of the inmate account statement, this 29th day of December, 2007, to:

1. Clerk of the Court
U.S.D.C. for W.D. OF PA
P.O. Box 1820
Erie, PA 16501



Juan Davila-Bajana, Pro Se
Fed. Reg. No. 47580-053
FCI McKean
P.O. Box 8000
Bradford, PA 16701

Inmate Statement



Inmate Reg #:	47580053	Current Institution:	McKean FCI
Inmate Name:	DAVILA-BAJANA, JUAN	Housing Unit:	MCK-B-A
Report Date:	12/27/2007	Living Quarters:	B01-126L
Report Time:	11:12:11 AM		

Alpha Code	Date/Time	Reference#	Payment#	Receipt#	Transaction Type	Transaction Amount	Encumbrance Amount	Ending Balance
MCK	12/25/2007 2:47:58 PM	TFN1225			Phone Withdrawal	(\$10.00)		\$105.96
MCK	12/24/2007 9:05:12 PM	TFN1224			Phone Withdrawal	(\$10.00)		\$115.96
MCK	12/24/2007 7:18:55 PM	TFN1224			Phone Withdrawal	(\$15.00)		\$125.96
MCK	12/23/2007 4:31:16 PM	70198302			Lockbox - CD	\$40.00		\$140.96
MCK	12/22/2007 10:58:06 AM	TFN1222			Phone Withdrawal	(\$10.00)		\$100.96
MCK	12/17/2007 10:58:37 AM	TFN1217			Phone Withdrawal	(\$10.00)		\$110.96
MCK	12/9/2007 10:45:03 AM	TFN1209			Phone Withdrawal	(\$16.00)		\$120.96
MCK	12/7/2007 7:54:57 AM	HIPP1107			Payroll - IPP	\$16.52		\$136.96
MCK	12/2/2007 7:38:12 PM	TFN1202			Phone Withdrawal	(\$10.00)		\$120.44
MCK	11/22/2007 9:19:12 AM	TFN1122			Phone Withdrawal	(\$10.00)		\$130.44
MCK	11/20/2007 5:31:38 AM	70196001			Lockbox - CD	\$50.00		\$140.44
MCK	11/18/2007 3:29:26 PM	TFN1118			Phone Withdrawal	(\$10.00)		\$90.44
MCK	11/16/2007 1:49:00 PM	TFN1116			Phone Withdrawal	(\$20.00)		\$100.44
MCK	11/9/2007 4:48:52 PM	TFN1109			Phone Withdrawal	(\$18.00)		\$120.44
MCK	11/9/2007 6:20:55 AM	HIPP1007			Payroll - IPP	\$18.44		\$138.44
MCK	11/9/2007 5:41:03 AM	70195401			Lockbox - CD	\$120.00		\$120.00
MCK	11/7/2007 4:31:19 PM	TFN1107			Phone Withdrawal	(\$5.00)		\$0.00
MCK	11/1/2007 10:50:17 AM	TFN1101			Phone Withdrawal	(\$5.00)		\$5.00
MCK	10/30/2007 10:27:53 AM	TFN1030			Phone Withdrawal	(\$5.00)		\$10.00
MCK	10/28/2007 11:05:39 AM	TFN1028			Phone Withdrawal	(\$10.00)		\$15.00
MCK	10/23/2007 9:27:12 AM	TFN1023			Phone Withdrawal	(\$5.00)		\$25.00
MCK	10/22/2007 10:39:35 AM	TFN1022			Phone Withdrawal	(\$15.00)		\$30.00
MCK	10/22/2007 5:18:53 AM	70194003			Lockbox - CD	\$30.00		\$45.00
MCK	10/6/2007 9:47:37 AM	TFN1006			Phone Withdrawal	(\$5.00)		\$15.00
MCK	10/5/2007 10:38:34 AM	TFN1005			Phone Withdrawal	(\$9.00)		\$20.00
MCK	10/5/2007 7:58:44 AM	HIPP0907			Payroll - IPP	\$18.00		\$29.00
MCK	10/3/2007 3:29:44 PM	DRR1003			Sales	\$1.25		\$11.00
MCK	10/1/2007 11:54:21 AM	92			Sales	(\$5.90)		\$9.75
MCK	9/24/2007 10:37:31 AM	TFN0924			Phone Withdrawal	(\$5.00)		\$15.65
MCK	9/20/2007 12:29:21 PM	81			Sales	(\$1.85)		\$20.65
MCK	9/20/2007 11:51:39 AM	58			Sales	\$9.10		\$22.50
MCK	9/20/2007 11:50:41 AM	57			Sales	(\$18.30)		\$13.40
MCK	9/13/2007 11:43:17 AM	54			Sales	(\$19.00)		\$31.70

MCK	9/8/2007 4:57:00 PM	TFN0908	Phone Withdrawal	(\$13.00)	\$50.70
MCK	9/8/2007 10:58:46 AM	TFN0908	Phone Withdrawal	(\$10.00)	\$63.70
MCK	9/8/2007 5:43:15 AM	70191101	Lockbox - CD	\$30.00	\$73.70
MCK	9/7/2007 8:14:14 AM	GIPP0807	Payroll - IPP	\$18.44	\$43.70
MCK	9/3/2007 9:49:09 AM	TFN0903	Phone Withdrawal	(\$5.00)	\$25.26
MCK	9/1/2007 9:20:15 AM	TFN0901	Phone Withdrawal	(\$8.00)	\$30.26
MCK	8/25/2007 10:44:34 AM	TFN0825	Phone Withdrawal	(\$10.00)	\$38.26
MCK	8/23/2007 2:18:48 PM	TFN0823	Phone Withdrawal	(\$5.00)	\$48.26
MCK	8/23/2007 12:22:39 PM	78	Sales	(\$12.20)	\$53.26
MCK	8/22/2007 5:36:19 PM	TFN0822	Phone Withdrawal	(\$5.00)	\$65.46
MCK	8/21/2007 2:57:38 PM	TFN0821	Phone Withdrawal	(\$5.00)	\$70.46
MCK	8/18/2007 8:42:17 PM	TFN0818	Phone Withdrawal	(\$5.00)	\$75.46
MCK	8/12/2007 10:52:56 AM	TFN0812	Phone Withdrawal	(\$10.00)	\$80.46
MCK	8/11/2007 7:38:16 AM	TFN0811	Phone Withdrawal	(\$15.00)	\$90.46
MCK	8/9/2007 12:22:31 PM	GIPP0707	Payroll - IPP	\$20.12	\$105.46
MCK	8/9/2007 11:47:45 AM	68	Sales	\$12.50	\$85.34
MCK	8/9/2007 11:38:50 AM	65	Sales	(\$98.15)	\$72.84

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Total Transactions: 123

Totals: \$15.23 \$0.00

Current Balances

Alpha Code	Available Balance	Pre-Release Balance	Debt Encumbrance	SPO Encumbrance	Other Encumbrance	Outstanding Instruments	Administrative Holds	Account Balance
MCK	\$65.96	\$0.00	\$0.00	\$0.00	\$0.00	\$40.00	\$0.00	\$105.96
Totals:	\$65.96	\$0.00	\$0.00	\$0.00	\$0.00	\$40.00	\$0.00	\$105.96

Other Balances

National 6 Months Deposits	National 6 Months Withdrawals	National 6 Months Avg Daily Balance	Local Max Balance - Prev 30 Days	Average Balance - Prev 30 Days	Commissary Restriction Start Date	Commissary Restriction End Date
\$714.48	\$689.15	\$52.95	\$140.96	\$120.35	N/A	N/A

Authorized by the Act of July
7, 1955 to Administer Oaths
(18U.S.C. 4004)

R. J. Moore

Case Manager
F.C.I. McKean, PA